

EXHIBT C

McKinney's Consolidated Laws of New York Annotated

Executive Law (Refs & Annos)

Chapter Eighteen. Of the Consolidated Laws

Article 6-C. Office of Fire Prevention and Control (Refs & Annos)

McKinney's Executive Law § 156-c

§ 156-c. Fire safety standards for cigarettes

Effective: July 11, 2013

[Currentness](#)

1. a. When used in this section, the word “cigarette” shall mean any roll for smoking made wholly or in part of tobacco or of any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

b. When used in this section, the word “sell” shall mean to sell, or to offer or agree to do the same.

2. a. Within two years after this section takes effect, the office of fire prevention and control shall promulgate fire safety standards for cigarettes sold or offered for sale in this state. Such standards shall take effect as provided in subdivision four of this section and shall insure either:

(1) That such cigarettes, if ignited, will stop burning within a time period specified by the standards if the cigarettes are not smoked during that period; or

(2) That such cigarettes meet performance standards prescribed by the office of fire prevention and control to limit the risk that such cigarettes will ignite upholstered furniture, mattresses or other household furnishings.

b. In promulgating fire safety standards for cigarettes pursuant to this section, the office of fire prevention and control, in consultation with the department of health, shall consider whether cigarettes manufactured in accordance with such standards may reasonably result in increased health risks to consumers.

c. The office of fire prevention and control shall be responsible for administering the provisions of this section.

d. The office of fire prevention and control shall report to the governor and the legislature no later than eighteen months after this section takes effect on the status of its work in promulgating the fire safety standards required by this subdivision.

e. When a cigarette is suspected of having ignited a fire, and the office of fire prevention and control receives information regarding the brand and style of such cigarette pursuant to [section two hundred four-d](#) or [ninety-one-a of the general municipal law](#), and where such brand and style had been previously certified pursuant to subdivision three of this section and the package has been marked as required by subdivision six of this section, the office of fire prevention and control shall conduct random

testing on cigarettes of the same brand and style in order to determine whether such cigarettes meet the fire safety standards mandated by this section; provided however that such testing shall not be required if the office of fire prevention and control has tested such brand and style within the preceding three months.

3. On and after the date the fire safety standards take effect in accordance with subdivision four of this section, no cigarettes shall be sold or offered for sale in this state unless the manufacturer thereof has certified in writing to the office of fire prevention and control that such cigarettes meet the performance standards prescribed by the office of fire prevention and control pursuant to subdivision two of this section.

(a) [For effective date of provisions of this paragraph, see [L.2006, c. 583, § 7.](#)] Such certifications must be based upon testing conducted by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the international organization for standardization, or such other comparable accreditation standard as the office of fire prevention and control shall require by regulation.

(b) Such certification shall be signed by an officer of the manufacturer and shall contain for each cigarette brand style such information as shall be deemed necessary by the office of fire prevention and control, including but not limited to: (i) the brand and style; (ii) length in millimeters; (iii) circumference in millimeters; (iv) flavor, if applicable; (v) filter or non-filter; (vi) package description; (vii) the name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; (viii) the date that the testing occurred; and (ix) a notarized statement from an officer or director of the laboratory certifying that the cigarette meets the performance standards prescribed by the office of fire prevention and control.

(c) If a manufacturer has certified a cigarette pursuant to this subdivision, and thereafter makes any change to such cigarette that is likely to alter its compliance with the fire safety standards mandated by this section, then before such cigarette may be sold or offered for sale in this state such manufacturer shall retest such cigarette in accordance with the testing standards prescribed by the office of fire prevention and control and maintain records of such retesting as required by subdivision seven of this section. Any such altered cigarette which does not meet the performance standard prescribed by the office of fire prevention and control may not be sold in the state. Copies of such written certifications shall be provided by the certifying manufacturer to all wholesale dealers, as defined in [subdivision eight of section four hundred seventy of the tax law](#), and all agents, as defined in [subdivision eleven of section four hundred seventy of the tax law](#). The office of fire prevention and control shall prescribe procedures by which stamping agents, wholesale dealers or retail dealers are notified of which cigarettes have been certified by manufacturers as meeting the performance standards prescribed by the office of fire prevention and control, which may include the maintenance of a website listing certified cigarette brands and styles.

4. The fire safety standards required pursuant to subdivision two of this section shall take effect on such date as the office of fire prevention and control shall specify in promulgating such standards and such date shall be the earliest practicable date by which manufacturers of cigarettes can comply with such standards; provided, however, that such date shall not be later than one hundred eighty days after such standards are promulgated. On and after such date, no person or entity shall sell in this state cigarettes that have not been certified by the manufacturer in accordance with subdivision three of this section or that have not been marked in the manner required by subdivision six of this section; provided, however, that nothing in this subdivision shall be construed to prohibit any person or entity from selling or offering for sale cigarettes that have not been certified by the manufacturer in accordance with subdivision three of this section and have not been marked in the manner required by subdivision six of this section if such cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

5. a. Any wholesale dealer, as defined in [subdivision eight of section four hundred seventy of the tax law](#), or any agent, as defined in [subdivision eleven of section four hundred seventy of the tax law](#), or any other person or entity who knowingly sells or offers to sell cigarettes in violation of subdivision four of this section shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale provided that in no case shall the penalty against any wholesale dealer exceed one hundred thousand dollars for sales or offers to sell during any thirty day period. Any retail dealer, as defined in [subdivision nine of section four hundred seventy of the tax law](#), who knowingly sells or offers to sell cigarettes in violation of subdivision four of this section shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale, provided that in no case shall the penalty against any retail dealer exceed twenty-five thousand dollars for sales or offers to sell during any thirty day period. Any person engaged in the business of selling cigarettes in or for shipment into New York who possesses cigarettes that have not been certified or marked in accordance with the requirements of this section shall be deemed to be offering such cigarettes for sale in New York. An agent licensed in more than one state may rebut such presumption by establishing: (i) that such cigarettes have been physically segregated from cigarettes offered for sale in New York; and (ii) no New York tax stamps have been placed on any cigarettes that have not been certified or marked in accordance with this section. In addition to any penalties imposed by this section the commissioner of taxation and finance, after an opportunity for a hearing has been afforded pursuant to [subdivision five of section four hundred eighty of the tax law](#), shall suspend for six months the license of any agent issued pursuant to [section four hundred seventy-two of the tax law](#), the license of any wholesale dealer issued pursuant to [section four hundred eighty of the tax law](#), or the registration of any retail dealer issued pursuant to [section four hundred eighty-a of the tax law](#), when such agent, wholesale dealer or retail dealer violates this [section three](#) or more times within a three year period, provided such violations occurred on at least three separate calendar days.

b. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, association or any other business entity engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to subdivision three of this section shall be subject to a civil penalty of at least seventy-five thousand dollars and not to exceed two hundred fifty thousand dollars for each such false certification, and any entity that fails to pay a civil penalty imposed pursuant to this paragraph within thirty days after such penalty is imposed, shall be subject to a bar from selling cigarettes covered by that false certification in this state until the state receives full payment of such penalty.

c. There is hereby established in the custody of the state comptroller a special fund to be known as the “Cigarette Fire Safety Act Fund”. Such fund shall consist of all moneys recovered from the assessment of civil penalties authorized by this subdivision. Such monies shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be available to the office of fire prevention and control for the purpose of fire safety and prevention programs. All payments from the cigarette fire safety act fund shall be made on the audit and warrant of the state comptroller on vouchers certified and submitted by the state fire administrator.

6. [For effective date of provisions of this subdivision, see [L.2006, c. 583, § 7.](#)] No cigarettes shall be distributed, sold or offered for sale in this state unless the manufacturer has placed on each individual package the letters “FSC” which signifies Fire Standards Compliant. Such letters shall appear in eight point type and be permanently printed, stamped, engraved or embossed on the package at or near the UPC Code, if present. Any package containing such symbol is deemed to be in compliance with the office of fire prevention and control regulations set forth in [19 NYCRR 429.8](#).

7. a. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes for a period of three years, and shall make copies of such reports available to the office of fire prevention and control and the attorney general upon written request; provided, however, that any manufacturer that fails to make copies of such reports available within sixty days of receiving such a written request shall be subject to a civil penalty not to exceed ten thousand dollars for each day after the

sixtieth day that such manufacturer does not make such copies available and shall be subject to a bar from selling or offering to sell cigarettes in New York until such copies are made available.

b. Testing performed or sponsored by the office of fire prevention and control in order to determine a cigarette's compliance with the fire safety standards mandated by this section shall be conducted (i) in accordance with the requirements applicable to manufacturers pursuant to the regulations of the office of fire prevention and control, and (ii) by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the international organization for standardization or such other comparable accreditation standard as the office of fire prevention and control shall require by regulation.

8. a. To enforce the provisions of this section, the commissioner of taxation and finance and the state fire administrator may take administrative action imposing the civil penalties and suspensions authorized by subdivision five of this section. In addition, the attorney general may bring an action on behalf of the people of the state of New York to enjoin acts in violation of this section and to recover any civil penalties unless civil penalties have been previously recovered in such administrative proceedings.

b. Any enforcement officer as defined in [section thirteen hundred ninety-nine-t of the public health law](#) shall have the power to impose upon any retail dealer the civil penalties authorized by subdivision five of this section, following a hearing conducted in the same manner as hearings conducted under article thirteen-E of the public health law.

c. To enforce the provisions of this section, the commissioner of taxation and finance and the state fire administrator, or their duly authorized representatives, are hereby authorized to examine the books, papers, invoices and other records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale, as well as the stock of cigarettes in any such premises. Every person in the possession, control or occupancy of any premises where cigarettes are placed, sold or offered for sale, is hereby directed and required to give the commissioner of taxation and finance and the state fire administrator, and their duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

d. Whenever any police officer designated in [section 1.20 of the criminal procedure law](#) or a peace officer designated in subdivision four and subdivision seventy-nine pertaining to the Office of Fire Prevention and Control, of section 2.10 of such law, acting pursuant to his or her special duties, shall discover any cigarettes which have not been marked in the manner required by subdivision six of this section, such officer is hereby authorized and empowered to seize and take possession of such cigarettes. Such seized cigarettes shall be turned over to the commissioner of taxation and finance, and shall be forfeited to the state. Cigarettes seized pursuant to this section shall be destroyed.

e. The commissioner of the division of homeland security and emergency services, in consultation with the state fire administrator, and the commissioner of taxation and finance are hereby authorized to promulgate such regulations as are deemed necessary to implement the provisions of this section.

Credits

(Added [L.2000, c. 284, § 1](#). Amended [L.2006, c. 583, §§ 3, 4](#), eff. Dec. 14, 2006; [L.2013, c. 101, pt. A, § 4](#), eff. July 11, 2013.)

McKinney's Executive Law § 156-c, NY EXEC § 156-c

Current through L.2023, chapters 1 to 520. Some statute sections may be more current, see credits for details.

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Compilation of Codes, Rules and Regulations of the State of New York
Title 19. Department of State
Chapter XII. Office of Fire Prevention and Control
Part 429. Fire Safety Standards for Cigarettes

NYCRR T. 19, Ch. XII, Pt. 429, Refs & Annos
[Currentness](#)

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

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Compilation of Codes, Rules and Regulations of the State of New York
Title 19. Department of State
Chapter XII. Office of Fire Prevention and Control
Part 429. Fire Safety Standards for Cigarettes (Refs & Annos)

19 NYCRR 429.1

Section 429.1. General requirements

Currentness

(a) On and after June 28, 2004, no cigarettes subject to the provisions of [section 156-c of the Executive Law](#) shall be sold or offered for sale in this State unless:

(1) such cigarettes have been tested in accordance with the test method prescribed in section 429.3 of this Part;

(2) such cigarettes meet the performance standard specified in section 429.4 of this Part; and

(3) a written certification has been filed by the manufacturer with the Department of State, Office of Fire Prevention and Control, One Commerce Plaza, 99 Washington Avenue, Suite 500, Albany, NY 12231-0001, in accordance with section 429.6 of this Part.

(b) Nothing in this Part shall prohibit wholesale dealers or retail dealers from selling their inventory of cigarettes existing on June 28, 2004, provided that such wholesale dealer or retail dealer can establish that New York State tax stamps were affixed to such cigarettes pursuant to article 20 of the Tax Law prior to June 28, 2004, and provided further that such wholesale dealer or retail dealer can establish that such inventory was purchased prior to June 28, 2004 in comparable quantity to the inventory purchased during the same period of 2003.

Credits

Sec. filed Oct. 28, 1981; repealed, filed July 26, 1996; new filed Dec. 31, 2003 eff. June 28, 2004; emergency rulemaking eff. March 7, 2008, expired June 4, 2008; amd. filed May 21, 2008 eff. June 4, 2008.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.1, 19 NY ADC 429.1

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19 NYCRR 429.2

Section 429.2. Definitions

Currentness

For the purposes of this Part:

- (a) *Agent* shall have the same meaning as [section 470\(11\) of the Tax Law](#).
- (b) *Cigarette* shall mean any roll for smoking whether made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.
- (c) *Manufacturer* shall mean:
- (1) any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in New York State, including cigarettes intended to be sold in the United States through an importer; or
 - (2) the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or
 - (3) any entity which becomes a successor of an entity described in paragraph (1) or (2) of this subdivision.
- (d) *Repeatability* shall mean the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.
- (e) *Retail dealer* shall have the same meaning as [section 470\(9\) of the Tax Law](#).
- (f) *Sale* shall mean any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor. In addition to cash and credit sales, the giving of cigarettes as samples, prizes or gifts, and the exchanging of cigarettes for any consideration other than money are considered sales.

Section 429.2. Definitions, 19 NY ADC 429.2

(g) *Sell* shall mean to sell, or to offer or agree to do the same.

(h) *Quality control and quality assurance program* shall mean the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment related problems do not effect the results of the testing. This program ensures that the testing repeatability remains within the required repeatability values stated in section 429.3(e) of this Part for all test trials used to certify cigarettes in accordance with this regulation.

(i) *Wholesale dealer* shall have the same meaning as [section 470\(8\) of the Tax Law](#).

Credits

Sec. filed Oct. 28, 1981; repealed, filed July 26, 1996; new filed Dec. 31, 2003 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.2, 19 NY ADC 429.2

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19 NYCRR 429.3

Section 429.3. Test method

Currentness

(a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials ("ASTM" standard E2187-02b "Standard Test Method for Measuring the Ignition Strength of Cigarettes," subject to the modifications stated in Appendix A to this Part. This standard may be obtained from the publisher at ASTM International, 100 Barr Harbor Drive, P.O. Box C700, W. Conshohocken, PA 19428-2959. This material is available for public inspection and distribution at the Department of State, Office of Fire Prevention and Control, 41 State Street, Albany, NY 12231-0001.

(b) Testing shall be conducted on 10 layers of filter paper.

(c) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(d) The performance standard required by section 429.4 of this Part shall only be applied to a complete test trial.

(e) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19 pursuant to section 429.4 of this Part.

Credits

Sec. filed Oct. 28, 1981; repealed, filed July 26, 1996; new filed Dec. 31, 2003 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.3, 19 NY ADC 429.3

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19 NYCRR 429.4

Section 429.4. Performance standard

Currentness

(a) When tested in accordance with section 429.3 of this Part, no more than 25 percent of the cigarettes tested in a test trial shall exhibit full length burns.

(b) Each cigarette listed in a certification submitted pursuant to section 429.6 of this Part that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in subdivision (a) of this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column (or 10 millimeters from the labeled end of the tobacco column for a non-filtered cigarette).

(c) The manufacturer or manufacturers of a cigarette that the Office of Fire Prevention and Control determines cannot be tested in accordance with the test method prescribed in section 429.3 of this Part shall propose a test method and performance standard for such cigarette to the Office of Fire Prevention and Control. Upon approval of the proposed test method and a determination by the Office of Fire Prevention and Control that the performance standard proposed by the manufacturer or manufacturers is equivalent to the performance standard prescribed in section 429.4 of this Part, the manufacturer or manufacturers may employ such test method and performance standard to certify such cigarette pursuant to section 429.6 of this Part. All other applicable requirements of this Part shall apply to such manufacturer or manufacturers.

Credits

Sec. filed Oct. 28, 1981; repealed, filed July 26, 1996; new filed Dec. 31, 2003 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.4, 19 NY ADC 429.4

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19 NYCRR 429.5

Section 429.5. Test data

Currentness

In order to ensure compliance with the performance standard specified in section 429.4 of this Part, data from testing conducted by manufacturers to comply with this performance standard shall be kept on file by such manufacturers for a period of three years and shall be sent to the Office of Fire Prevention and Control upon its request, and to the Office of the Attorney General upon its request, at the addresses specified in section 429.1(a)(3) of this Part.

Credits

Sec. filed Oct. 28, 1981; repealed, filed July 26, 1996; new filed Dec. 31, 2003 eff. June 28, 2004.; amended adoption filed April 12, 2004 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.5, 19 NY ADC 429.5

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19 NYCRR 429.6

Section 429.6. Certification

Currentness

(a) Each manufacturer shall submit a written certification attesting that:

- (1) each cigarette listed in the certification has been tested in accordance with section 429.3 of this Part; and
- (2) each cigarette listed in the certification meets the performance standard set forth in section 429.4 of this Part.

(b) Each cigarette listed in the certification shall be described with the following information:

- (1) brand (*i.e.*, the trade name on the package);
- (2) style (*e.g.*, light, ultra light);
- (3) length in millimeters;
- (4) circumference in millimeters;
- (5) flavor (*e.g.*, menthol, chocolate) if applicable;
- (6) filter or non-filter;
- (7) package description (*e.g.*, soft pack, box); and
- (8) marking approved in accordance with section 429.8 of this Part.

(c) Each cigarette certified under this section shall be re-certified every three years.

Section 429.6. Certification, 19 NY ADC 429.6

Credits

Sec. filed Dec. 31, 2003 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.6, 19 NY ADC 429.6

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19 NYCRR 429.7

Section 429.7. Notification of certification

Currentness

Manufacturers certifying cigarettes in accordance with section 429.6 of this Part shall provide a copy of such certifications to all wholesale dealers and agents to which they sell cigarettes, and shall also provide sufficient copies of an illustration of the cigarette packaging marking utilized by the manufacturer pursuant to section 429.8 of this Part for each retailer to which the wholesale dealers and agents sell cigarettes. Wholesale dealers and agents shall provide a copy of these cigarette packaging markings received from manufacturers to all retail dealers to which they sell cigarettes. Wholesale dealers, agents, and retail dealers shall permit the Office and Fire Prevention and Control to inspect markings of cigarette packaging marked in accordance with section 429.8 of this Part.

Credits

Sec. filed Dec. 31, 2003 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.7, 19 NY ADC 429.7

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19 NYCRR 429.8

Section 429.8. Marking of cigarette packaging

Currentness

(a) Cigarettes which have been certified by a manufacturer in accordance with section 429.6 of this Part shall be marked to indicate compliance with the requirements of this Part. Such marking shall be in eight point type or larger and consist of:

(1) modification of the product UPC code to include a visible mark printed at or around the area of the UPC code. Such mark may consist of alphanumeric or symbolic character(s) permanently stamped, engraved, embossed or printed in conjunction with the UPC; or

(2) any visible combination of alphanumeric or symbolic character(s) permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(3) printed, stamped, engraved or embossed text that indicates that the cigarettes meet New York standards.

(b) Such marking shall be unique to packages that meet New York standards.

(c) A manufacturer must use only one marking, and must apply this marking uniformly for all packages (including but not limited to packs, cartons, and cases) and brands marketed by that manufacturer.

(d) The Office of Fire Prevention and Control must be notified at the address specified in section 429.1(c) of this Part as to the marking which is selected.

(e) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the Office of Fire Prevention and Control for approval. Upon receipt of the request, the Office of Fire Prevention and Control will approve or disapprove the marking offered. Proposed markings shall be deemed approved if the Office of Fire Prevention and Control fails to act within 10 business days of receiving a request for approval.

(f) No manufacturer shall modify its approved marking unless the modification has been approved by the Office of Fire Prevention and Control in accordance with this section.

Section 429.8. Marking of cigarette packaging, 19 NY ADC 429.8

Credits

Sec. filed Dec. 31, 2003 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.8, 19 NY ADC 429.8

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Section 429.9. Severability, 19 NY ADC 429.9

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19 NYCRR 429.9

Section 429.9. Severability

Currentness

If any clause, sentence, paragraph, or section of this Part be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof but shall be applied in its operation to the clause, sentence, paragraph, or section hereof directly involved in the controversy in which such judgment shall have been rendered.

Credits

Sec. filed Dec. 31, 2003 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.9, 19 NY ADC 429.9

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19 NYCRR 429.10

Section 429.10. Appendix A

Currentness

The provisions of American Society of Testing and Materials (“ASTM” standard E2187-02b “Standard Test Method for Measuring the Ignition Strength of Cigarettes,” referenced in section 429.3(a) of this Title, are modified for the purposes of this rule as follows:

(1) Section 6.2.2. is changed to read:

Respiratory equipment shall be made available for personnel upon request or if the environmental conditions in the laboratory warrant.

(2) Sections 7.3 to 7.5. are changed to allow the following dimensions and allowances for the test apparatus:

inches		mm	
Dimension	Tolerance	Dimension	Tolerance
Test Chamber			
Height	13.4 1	340	25
Width	11.5 0.25	292	6
Depth	15.5 0.25	394	6
Thickness	0.25 nominal	6	nominal
Chimney Height	6.5 0.5	165	13
Chimney I.D.	6.0 0.25	152	6
Filter Paper Holder			
O.D.	6.5 0.04	165	1
I.D.	5.0 0.04	127	1
Height	1.97 0.04	50	1
Recess Depth	0.4 0.01	10	2.5
Recess I.D.	6.0 0.04	152	1
Metal Rim			
O.D.	5.9 0.08	150	2
I.D.	5.1 0.08	130	2
Thickness	0.25 0.04	6.4	1
Pin Diameter	0.04 nominal	1	nominal
Pin Separation	0.32 0.02	8.1	0.05
Pin Length	0.65 0.15	17	4

Note: The outer diameter of the metal rim is not to exceed the inner diameter of the recess in the filter paper holder.

(3) Section 7.6 is changed to read that the holder shall not contact the cigarette within a nominal 30 mm (1.2 in) of its lit end.

(4) Section 7.7. is changed to delete the word “pencil” in describing the mark on the cigarette.

(5) Section 8.1.2. is changed to read:

The non-turbulent smoke column height is to be a nominal 150 mm (6 in) above the lit end of the cigarette.

(6) Section 9.1. is changed to read:

Cigarette test specimens and filter paper substrates are sensitive to contamination. Test cigarettes shall be handled only by the last nominal 25 mm (1 in) of the end of the cigarette that is not to be lit. The sheets of filter paper shall not be handled in the vicinity where the cigarette will contact the paper during a test. In all cases, the materials shall be handled with dry hands only.

Note: The use of clean, dry, non-powdered surgical gloves can mitigate incidental contamination of the test materials while maintaining operator dexterity.

(7) The last sentence in 9.2.1 is changed to read:

If the specimens are to be stored by the testing laboratory for more than one week, they shall be placed in a freezer at approximately 0 C (32 F) to -20 C (-4 F) reserved for the sole protection of cigarette specimens to minimize the risk of contamination.

(8) Section 9.2.2 is changed to read:

Prior to testing, cigarette test specimens shall be marked, using a #2 or softer graphite pencil or other marking, 5 mm \pm 1 mm and 15 mm \pm 1 mm (0.2 in and 0.6 in, each \pm 0.04 in) from the end of the cigarette that will be lit. These marks are used to establish the start (11.4) and completion (11.5.4) of a uniform pre-burn period, respectively. Neither the process of marking the cigarette nor the mark itself shall significantly affect the cigarette burn rate.

(9) In Section 9.3 and its subparagraphs, the mean mass, rather than the median mass shall be used in all cases. In addition, the following Section 9.3.3. is added to Section 9.3:

9.3.3 Pending assurance of the availability of filter paper that meets the specifications in Sections 9.3.1 and 9.3.2, the following provisions apply:

Paper with a mean conditioned mass of 25.1 g to 26.6 g (for 15 sheets) and a mean dry mass of 23.7 g to 25.2 g shall be used for the testing of cigarettes.

The standard deviation of at least five samples (dry or conditioned) shall not exceed 0.4 g.

(10) Section 10.1. is changed to read:

Cigarettes shall be conditioned at a relative humidity of 55 \pm 5 percent and a temperature of 23 \pm 30°C (73 \pm 5°F) for at least 24 h prior to testing. The cigarettes shall be placed in a clean, open container, with the number of cigarettes being sufficiently small as to enable free air access to the specimens, for example, a maximum of 20 cigarettes in a 250 mL polyethylene or glass beaker.

(11) The following note is added to section 11.4.1:

Note: This provision need not be followed by an individual test operator if that operator has demonstrated that lifting the restriction does not introduce error that significantly changes either the measured ignition strength or the uncertainty of that measurement. This determination is the responsibility of the testing laboratory.

(12) Section 11.5 is changed to read:

Holding the cigarette vertically, coal end up, transport the cigarette to the test chamber.

Note: It has been found that holding a 600 mL beaker over the cigarette coal is helpful in mitigating the likelihood of a foreign object or room air current impacting the cigarette during transport and thus leading to the need to terminate the determination.

Credits

Sec. filed Dec. 31, 2003 eff. June 28, 2004; amended adoption filed April 2, 2004 eff. June 28, 2004.

Current with amendments included in the New York State Register, Volume XLV, Issue 40 dated October 4, 2023. Some sections may be more current, see credits for details.

N.Y. Comp. Codes R. & Regs. tit. 19, § 429.10, 19 NY ADC 429.10

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